

1 **REMARKS**

2 Herein, the "Action" or "Office Action" refers to the Office Action dated
 3 11/8/2004.

4 Applicant respectfully requests reconsideration and allowance of all of the
 5 claims of the application. Claims 25-27, 29-36, 66, and 68 are presently pending.
 6 Claims amended herein are 25, 29, 34, 66 and 68. Claims withdrawn or cancelled
 7 herein are 28 and 67. New claims added herein are none .

8

9 **Allowable Claims**

10 Applicant appreciates the Office's recognition of the allowability of claims
 11 28, 29, 67, and 68 if re-written into independent forms. Applicant does that
 12 herein. However, Applicant incorporates the dependencies of claim 28 into its
 13 base claim 25 and the dependencies of claim 67 into its base claim 66.

14 To speed along issuance of claims in this case, Applicant cancels claims 28
 15 and 67 which leaves primarily the claims pending which are the ones that the
 16 Office indicates would be allowable.

17 **Formal Claim Rejections**

18 The Office rejects claims independent claims 25 and 66 under 35 USC §
 19 112, 2nd ¶, as being indefinite "for failing to particularly point out and distinctly
 20 claim the subject matter which applicant regards as the invention."

21 In particular, the Office indicates that the recitation of the term
 22 "approximately" in these claims is not defined in the claim, the specification does
 23 not provide a standard for ascertaining the requisite degree, and one of ordinary

421 West Riverside, Suite 500
 Spokane, WA 99201
 P: 509.324.9256
 F: 509.323.8979
 WWW.leehayes.com

lee & hayes
 LEETON HAYES & ASSOCIATES PLLC

1 skill in the art would not be reasonably apprised of the scope of the invention.
 2 Accordingly, Applicant amends these claims remove this term ("approximately").

3 **Substantive Claim Rejections**

4 The Office rejects claim 34 under 35 USC § 101 because, it asserts, the
 5 invention is directed at non-statutory subject matter. Applicant amends this claim
 6 to include language that indicates that the generated signal is embodied on one or
 7 more computer-readable media. Furthermore, Applicant notes that the generated
 8 signal is a resulting "product" of the "process" specified in its base claim (claim
 9 25). Thus, claim 34 is product-by-process claim. Accordingly, Applicant submits
 10 that this claim is statutory.

11 The substantive rejections (under §§ 102 and 103) of the original forms of
 12 claims 25-27, 30-36, and 66 are moot since these claims have been withdrawn
 13 from consideration or have been amended to incorporate elements and features
 14 that the Office indicates are allowable.

15 In their original form, these claims are withdrawn from consideration.
 16 Applicant does this in order speed along issuance of the pending claims that the
 17 Office indicates are allowable or would be allowable if re-written into independent
 18 form. Applicant reserves the right to reintroduce these claims at a later date.

421 West Riverside, Suite 500
 Spokane, WA 99201
 P: 509.324.9256
 F: 509.323.8979
www.leehayes.com



1 **Conclusion**

2 All pending claims are in condition for allowance. Applicant respectfully
3 requests reconsideration and prompt issuance of the application. If any issues
4 remain that prevent issuance of this application, the Office is urged to contact the
5 undersigned attorney before issuing a subsequent Action.

6

7 Dated: 1-7-05

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Respectfully Submitted,

By: 

Kasey C. Christie
Reg. No. 40559
(509) 324-9256 x232
kasey@leehayes.com
www.leehayes.com

421 West Riverside, Suite 500
Spokane, WA 99201
P: 509.324.9256
F: 509.323.8979
www.leehayes.com

leehayes

Serial No.: 09/843,279
Atty Docket No.: MS1-792US
RESPONSE TO OFFICE ACTION DATED 11/8/2004

9

1230041057 G:IMS1-01792us\MS1-792us.m02.doc
atty: Kasey C. Christie